DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—00303; Lucas, Iowa, NAFTA—00303A; Mt. Ayr, Iowa, NAFTA—00303B; Osceola, Iowa, and NAFTA—00303C]

Iowa Assemblies, Inc., Murray, Iowa; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Notice of Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on January 12, 1995, applicable to all workers at Iowa Assemblies, Inc. in Lucas, Mt. Ayr and Osceola, Iowa.

At the request of the State Agency on behalf of the company, the Department reviewed the subject certification. The company reports worker separations will occur at the subject firm's manufacturing facilities in Mt. Ayr, Osceola, and Murray, Iowa. The workers produce among other products, automotive wiring harnesses and wiring assembly. The Department's review of the certification for workers of the subject firm found that workers in Mt. Ayr and Osceola, Iowa are currently covered under the certification. When the certification was issued, the Mt. Ayr and Osceola locations of the subject firm were not separately assigned a suffix number. The intent of the Department's certification is to include all workers of Iowa Assemblies, Inc. adversely affected by increased imports of wiring harnesses and assembly from Mexico or Canada. Therefore, the Department is amending the certification for workers of the subject firm to separately identify the Mt. Ayr and Osceola, Iowa locations, and provide for the worker separations in Murray, Iowa.

The amended notice applicable to NAFTA–00303 is hereby issued as follows:

''All workers of Iowa Assemblies, Inc., Lucas (NAFTA–303), Mt. Ayr (NAFTA–303A), Osceola (NAFTA–303B), and Murray (NAFTA–0303C) Iowa engaged in employment related to the production of wiring harnesses and assembly who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC., this 5th day of December 1995.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–30652 Filed 12–15–95; 8:45 am]

BILLING CODE 4510–30–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 95–8]

Copyright, Cable Compulsory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of policy decision.

SUMMARY: The Copyright Office of the Library of Congress is announcing a policy decision with respect to the examination and reporting of local broadcast signals in light of the amendment to section 111 of the Copyright Act made by the Satellite Home Viewer Act of 1994. For examining cable statements of account, the Office will use the same ADI list used by the Federal Communications Commission for its must-carry/retransmission consent election, and will treat a broadcast signal as local for copyright purposes only within that station's ADI.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney for Compulsory Licenses. Telephone (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

On October 18, 1994, the President of the United States signed into law the Satellite Home Viewer Act of 1994. Public Law No. 103–369. In addition to extending and amending the compulsory license for satellite carriers in 17 U.S.C. 119, the Home Viewer Act expanded the cable compulsory license definition of the ''local service area of a primary transmitter'' in 17 U.S.C. 111 to include a broadcast station's ''television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations'' (parenthetical in original). The amendment was made effective beginning with the second accounting period of 1994.

The definition of the ''local service area of a primary transmitter'' in 17 U.S.C. 111(f) determines whether a broadcast station is local or distant to a cable system and consequently when it must submit a royalty fee for retransmission of that signal. Cable systems pay royalties for carriage of distant signals and may retransmit local broadcast signals to their subscribers without incurring copyright liability.[1] Prior to the passage of the Home Viewer Act, the local service area definition provided that a broadcast station was local in the area that it could ''insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations and authorizations of the Federal Communications Commission in effect on April 15, 1976* * *'' 17 U.S.C. 111(f) (1976). This was a reference to the Commission's must-carry rules in effect in 1976, and the Copyright Act fixed these rules for all future copyright determinations. Although these must-carry rules were ultimately declared unconstitutional, *see Quincy Cable T.V., Inc.* v. *FCC,* 768 F.2d 1434 (D.C. Cir. 1985), *cert. denied,* 476 U.S. 1169 (1986) and *Century Communications* v. *FCC,* 835 F.2d 292 (D.C. Cir. 1987), *cert. denied,* 486 U.S. 1032 (1988), they remain in effect for purposes of 17 U.S.C. 111. *See Quincy,* 768 F.2d at 1454 n. 42. However, because of the passage of time and changes in telecommunications law and policy, the 1976 must-carry rules no longer reflect the realities of the current marketplace. Congress, therefore, amended the local service area definition in the Home Viewer Act to provide an additional means of determining the local/distant copyright status of broadcast stations.

The Home Viewer Act amendment provides that, in addition to the area encompassed by the 1976 must-carry rules, a broadcast station is local for copyright purposes in the area that comprises that station's television market as defined in § 76.55(e) of the FCC's rules, and any subsequent modifications made by the FCC to that market. In many circumstances, a station's television market under § 76.55(e) creates a larger local service area than under the 1976 must-carry rules. Cable systems may use either the television market or the 1976 must-carry

[1] There is one exception to this rule: a cable system which retransmits only local broadcast signals must nonetheless submit a minimum royalty fee under 17 U.S.C. 111. However, if the system carries one or more distant signals, royalties are only paid for those distant signals, and the local signals carried are copyright-free. As a practical matter, there are very few cable systems which only carry local broadcast signals and no distant signals.

rules, or both, in determining the local service area of each broadcast station they retransmit to their subscribers.

Section 76.55(e) of the FCC's rules defines a television market for purposes of the Commission's new must-carry rules adopted to implement the Cable Television Consumer Protection and Competition Act of 1992. Public Law 102–385. The section provides in its entirety:

(e) Television market. For purposes of the must-carry rules:

(1) A local commercial broadcast television station's market shall be defined as its Area of Dominant Influence (ADI) as determined by Arbitron and published in its *Television ADI Market Guide* or any successor publication, as noted below, except that for areas outside the contiguous 48 states the area of dominant influence may be defined using Nielsen's Designated Market Area (DMA), where applicable, and that Puerto Rico, the U.S. Virgin Islands and Guam will each be considered one ADI;

(2) A cable system's television market(s) shall be the one or more ADIs in which the communities it serves are located;

(3) In addition, the county in which a station's community of license is located will be considered within its market.

Note: For the 1993 must-carry/retransmission consent election, the ADI assignments specified in the 1991–1992 *Television ADI Market Guide,* available from the Arbitron Ratings Co., 312 Marshall Ave., Laurel MD, will apply. ADI assignments will be updated at three year intervals. For the 1996 election period, the 1994–1995 ADI list will be used; the applicable list for the 1999 election will be the 1997–1998 list, etc.

47 CFR 76.55(e) (1993). The Home Viewer Act fixes 47 CFR 76.55(e) as of September 18, 1993, but expressly includes any subsequent modifications to television markets made under § 76.55(e) or § 76.59 of the Commission's rules. Modifications were recognized by the Home Viewer Act because, at the time of its passage, the Arbitron Company had discontinued its publication of the Television ADI Market Guide and had filed for bankruptcy.

Subsequent to the enactment of the Home Viewer Act, the Copyright Office amended its cable and satellite carrier compulsory license rules and discussed the changes brought about by the Act. 59 FR 67635 (December 30, 1994). The new definition of the ''local service area of a primary transmitter'' did not require amendment of the rules; however, the Office described the change in the definition:

The other change to the cable compulsory license made by the 1994 Home Viewer Act is the broadening of the section 111(f) definition of the ''local service area of a primary transmitter.'' The definition is used to determine when a broadcast station is local or distant to a cable operator, which in turn determines whether the operator must pay a royalty fee for that station. Effective July 1, 1994, the local service area of a broadcast station for copyright purposes also includes the area in which the station is entitled to insist upon carriage of its signal by a cable system (i.e. its must-carry zone), in accordance with the rules of the Federal Communications Commission in effect on September 18, 1993, and any subsequent modification of those rules.

Id. To date, this is all the Office has said regarding the change made to the local service area definition by the Home Viewer Act.

II. Policy Issues

Amendment of the definition of the ''local service area of a primary transmitter'' has led to questions in the administration of the cable compulsory license. Two of these questions must be resolved in order for the Copyright Office to administer the cable compulsory license. The first question involves the Copyright Office's use of ADI in its examination of cable statements of account. As discussed above, the amendment to the local service area definition was made effective beginning with the second accounting period of 1994, and cable systems are now using broadcast stations' ADI for determining the local/distant status of the signals. The question has arisen, however, as to the appropriate ADI information to consider in calculating the local service area of a broadcast signal. The Note to 47 CFR 76.55(e) states that the FCC is using the 1991–1992 Television ADI Market Guide for the 1993 must-carry/retransmission consent election, and that ADI assignments will be updated at three year intervals.[2] Should cable systems use the 1991–1992 Television ADI Market Guide for the 1994/2 accounting period and the 1995 accounting year, or should they apply the current ADI list to the corresponding accounting period—i.e. the 1994 list to the 1994 accounting year and the 1995 list to the 1995 accounting year, where such information is available?

The second question involves the determination of a broadcast station's ''television market'' for a cable system that serves a community or communities in more than one county where those counties are assigned to different ADIs. Is the broadcast station local for copyright purposes only in those counties assigned to its ADI, or are there circumstances where the station may be reported as local outside of its ADI?

III. Policy Decision

As part of its responsibility to administer the cable compulsory license, the Copyright Office is resolving both the issues raised in this Notice. With respect to which ADI (or subsequent) list to use in examining statements of account, the Office will use only the list designated by the Commission for the must-carry/retransmission consent election. For determinations of the local/distant status of a broadcast station, the Office is clarifying the circumstances under which a station may be reported as local for copyright purposes.

A. The ADI list

The amended local service area definition expressly adopts Arbitron's ADI list in effect on September 18, 1993, plus any subsequent modifications made to that list pursuant to § 76.55(e) or § 76.59 of the FCC's rules. Section 76.55(e) provides that the ADI list in effect on September 18, 1993, is the list appearing in the 1991–1992 Television ADI Market Guide. 47 CFR 76.55(e)(Note). It is further provided that 1991–1992 Television ADI Market Guide list will remain in effect until the time of the 1996 must-carry/retransmission consent, when the 1994–1995 ADI list will be used. While it is presumed that the ADI list applicable for 1996 will account for the termination of publication of the Television ADI Market Guide, § 76.55(e) makes it clear that the Commission will only revise the ADI list at three-year intervals. Because of the Home Viewer Act's direct reference to 47 CFR 76.55(e), the Copyright Office believes that it is consistent with legislative intent to use only the ADI (or replacement) list used by the Commission for the must-carry/retransmission consent election. Thus, for the 1994/2 accounting period, and both accounting periods for 1995, the Copyright Office will use the 1991–1992 Television ADI Market Guide in determining the local/distant status of broadcast signals. Cable operators should use only this list for these accounting periods; in examining Statements of Account, the Copyright Office will not recognize the ADI of a broadcast station derived from any source other than the 1991–1992 Television ADI Market Guide. For the

[2] The Note further states that the 1994–1995 ADI list will be used for the 1996 election, the 1997–1998 list for the 1999 election, etc. Arbitron, however, discontinued the *Market Guide* after publication of the 1993–1994 edition. New criteria, presumably Nielsen's Designated Market Area, must be adopted before the 1996 must-carry/retransmission consent election, and the Commission has stated that it will address the issue before October 1, 1996. *See Opinion & Order in MM Docket No. 92–259* at 10 n. 45 (November 4, 1994).

1996, 1997 and 1998 accounting years, cable operators should use the list adopted by the Commission for the 1996 must-carry/retransmission consent election, and, for subsequent years, the list adopted by the Commission for each must-carry/retransmission consent election period. If the Commission should make modifications to television markets in accordance with §§ 76.55(e) and/or 76.59, or should generate a television market list for the must-carry/retransmission consent election other than at three-year intervals, those modifications should be applied to their corresponding compulsory license accounting periods in determining the local service area of a broadcast station.

B. Local/Distant Status

In the December 30, 1994, adjustment of our regulations to account for the statutory changes made by the Home Viewer Act, we described the Act's amendment to the local service area definition in 17 U.S.C. 111(f) as ''includ[ing] the area in which the station is entitled to insist upon carriage of its signal by a cable system (i.e. its must-carry zone), in accordance with the rules of the Federal Communications Commission in effect on September 18, 1993, and any subsequent modification of those rules.'' 59 FR 67635 (December 30, 1994). We believe we need to clarify this statement as it relates to cable systems that serve communities in more than one county assigned to different ADIs.

Cable carriage by one system across one or more ADIs does not appear to be an uncommon occurrence. Each county in the United States is allocated to a market based on which home-market stations receive a preponderance of total viewing. Because many larger cable systems typically serve several counties, a ''straddle'' situation can occur where a cable system carries a broadcast signal assigned to one market in communities within counties assigned to other markets. This situation is further complicated when such carriage is pursuant to the FCC's new must-carry rules. How should cable systems straddling different markets report carriage of broadcast signals in those markets for compulsory license purposes?

The Home Viewer Act amendment to the 17 U.S.C. 111(f) local service area definition makes it clear that a broadcast station's television market is its ADI. The Home Viewer Act defines ''television market'' by reference to § 76.55(e) of the FCC's rules, which provides that a broadcast station's television market is ''its Area of Dominant Influence (ADI) as determined by Arbitron and published in its *Television ADI Market Guide* * * *'' 47 CFR 76.55(e)(1). A broadcast station's ADI is also the area in which it is entitled to assert mandatory carriage rights on cable systems located in that ADI. *See Broadcast Signal Carriage Issues,* 8 FCC Rcd 2965, 2976–2977 (1993). Thus, the Office acknowledged in its December 30, 1994, Federal Register notice the correspondence between a broadcast station's must-carry area and its ADI; however, it did not describe what application, if any, this would have to cable systems straddling more than one ADI.

After reviewing the provisions of the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), Public Law No. 102–385, and the FCC's implementing rules, it is apparent that there are circumstances, e.g., the ''straddle'' situation, where the must-carry zone of a broadcast station exceeds its ADI. The FCC stated in its *Report & Order* implementing the 1992 Cable Act's must-carry requirements that in circumstances where a cable system serves a community or communities in more than one county and those counties are assigned to different ADIs, ''all broadcast stations in both ADIs will be considered 'local' for must-carry purposes.'' 8 FCC Rcd at 2976.

We do not believe that the application of the must-carry rules adopted pursuant to the 1992 Cable Act have any direct bearing in determining the size of the local service area of a broadcast station for copyright purposes. The copyright local service area is a broadcast station's television market as defined in 47 CFR 76.55(e), which means that it is the station's ADI, plus any modifications made to the ADI by the Commission under § 76.55 or § 76.59 of its rules.[3] The Office should not have stated in the December 30, 1994, Federal Register notice that the local service area was equal to the station's must-carry zone, since such zone can, in certain circumstances, be considered to extend beyond a station's ADI. Thus, in the ''straddle'' situation, a cable system may only report carriage of a broadcast station as local under 17 U.S.C. 111 in those communities assigned to the station's ADI, even though the system may have must-carry obligations to deliver the signal to communities located in other ADIs.

We believe that this interpretation is consistent with Congress' intent in amending the local service area definition. The legislative history to the Home Viewer Act does not indicate any intention to equate the copyright local service area with the must-carry obligation, and to do so would do violence to 17 U.S.C. 111(d)(1)(B) by substantially reducing the occurrence of partially local/partially distant signals. Furthermore, Congress expressly recognized in the 1992 Cable Act that broadcast stations could be considered distant signals for copyright purposes in communities where they enjoyed must-carry rights. 1992 Cable Act, section 614(h)(1)(b)(ii). Nothing in the Home Viewer Act indicates an intention to change this result.

Dated: December 4, 1995.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–30458 Filed 12–15–95; 8:45 am]

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[3] We acknowledge that changes made to a station's ADI under 47 CFR 76.55(e) or 76.59 will undoubtably be for reasons related to the must-carry rules; however, it is only changes made to a station's ADI under these two rules that matter for copyright purposes.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36568; Filed No. SR–CBOE–95–62]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding Book-Entry Settlement of Securities Transactions and Depository Eligibility Requirements

December 8, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 19, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by CBOE. On October 26, 1995, CBOE filed an amendment to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] CBOE amended its proposal to correct a typographical error in the filing. Letter from Michael L. Meyer, Schiff, Hardin & Waite, to Mark Steffensen, Division of Market Regulation (''Division''), Commission (October 26, 1995).